

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

HARRY SMITH, JR., and ROSLYN)
WOODARD SMITH, individually and as)
Administrators of the ESTATE OF HARRY)
SMITH, III)

Plaintiffs,)

v.)

CITY OF WILMINGTON, JOHN)
CIRITELLA, THOMAS DEMPSEY and)
MATTHEW KURTEN,)

Defendants.)

C.A. No. 04-1254-GMS

JURY TRIAL DEMANDED

AFFIDAVIT OF DONNA DICLEMENTE

COUNTY OF NEW CASTLE)
) SS:
STATE OF DELAWARE)

Donna DiClemente, being first duly sworn, deposes and says that:

1. I am a Detective with the Wilmington Police Department and was employed in that capacity on September 13, 2003.

2. On the September 13, 2003, I was a passenger in a tan detective's car driven by Detective Michael Lawson. We heard 16-Charles broadcast on the police radio that an officer needs assistance and immediately responded to that call. Very shortly after the officer-needs-assistance call, 16-Charles broadcast "shots-fired" and "he's got the car" or words to that effect. Almost immediately thereafter I heard a broadcast of the route being taken by the stolen police car. When we heard that the car was heading southbound on Washington Street we drove southbound on Monroe Street so as to parallel the route taken by the stolen police car.

3. At the intersection of 7th and Monroe I saw the stolen police car was heading west on Seventh Street (a one-way eastbound street) and make a left-hand turn and headed south onto Monroe Street. The stolen police car appeared to be traveling at an excessive speed and barley was able to make the turn onto Monroe.

4. As the stolen police car drove south on Monroe it ran a stop sign at 6th Street and again at 5th Street. At the intersection of 4th and Monroe the stolen police car ran a red light and made a right hand turn onto 4th Street. The stolen police car then proceeded west on Fourth Street.

5. We followed the stolen police car on 4th Street. The suspect was driving the stolen police car very aggressively and erratically. He was swerving and nearly struck some parked cars.

6. A gap opened up between our car and the stolen police car. A marked Wilmington police car which was headed southbound on Jackson Street took a right hand turn onto 4th Street and followed the stolen police car westbound. (I now understand that this police car was driven by Officer Donald Dempsey). We continued to follow, and were now the second car in the pursuit.

7. The stolen police car turned north on VanBuren followed by Officer Donald Dempsey and our car and perhaps others. The stolen police car then made a left hand turn on 5th Street and proceeded west on 5th towards Harrison. It was followed first by Officer Dempsey, then our car and perhaps others.

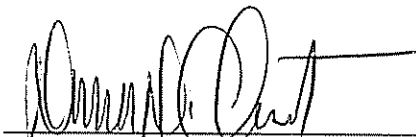
8. The stolen police car appeared to be stopping on 5th Street, and I began to get out of my vehicle. As a result my attention was momentarily diverted. I observed the stolen police

car traveling north on Harrison Street and heard several gunshots. I did not observe who fired the shots.

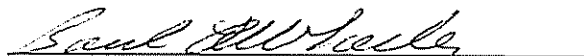
9. I approached the stolen police car on the passenger side. At that point, I was behind Detective Ciritella. I immediately ran behind the rear of the police car and assisted Detective Lawson in removing the suspect from the stolen police car. I proceeded to check if the suspect had a pulse. He did not have a pulse and he did not appear to be breathing. The suspect was unresponsive. I began CPR on the suspect and continued those efforts until the New Castle County Paramedics arrived on the scene.

10. At no time, however, did I fire my weapon during this incident.

11. At no time did I see or hear anyone shoot at the stolen police car after it stopped.


Donna DiClemente

SWORN to and subscribed before me this
7th day of June, 2006.


Notary Public

BARBARA A. WHEELER
Notary Public - State of Delaware
My Comm. Expires June 20, 2006

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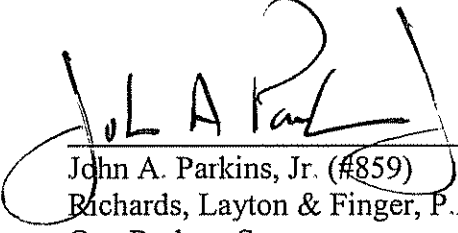
CERTIFICATE OF SERVICE

I hereby certify that on June 14, 2006, I electronically filed the foregoing document with the Clerk of Court using CM/ECF which will send notification of such filing(s) and Hand Delivered to the following:

Kester I.H. Crosse, Esquire
Williams & Crosse
1214 King Street
Suite 300
Wilmington, DE 19801

I hereby certify that on June 14, 2006, I have sent by U.S. Regular Mail, the foregoing document to the following non-registered participants:

Anne T. Sulton, Esquire
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